

**ORAL ARGUMENT NOT YET SCHEDULED****IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AES PUERTO RICO, LP

Petitioner,

v.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY and GINA McCARTHY,  
Administrator, U.S. Environmental Protection  
Agency

Respondents.

Case No. 15-1229  
(Consolidated with Case Nos.  
15-1219, 15-1221, 15-1222,  
15-1223, 15-1227, and 15-  
1228)

**NON-BINDING STATEMENT OF ISSUES FOR  
PETITIONER AES PUERTO RICO, LP**

In accordance with this Court's July 17, 2015 Order, petitioner AES Puerto Rico, LP ("AESPR") submits this nonbinding Statement of Issues to be raised in this proceeding.

1. Whether EPA violated the notice and comment requirements of the Administrative Procedure Act (APA) or other procedures required by law by regulating piles of coal combustion residuals ("CCRs"), even when the CCRs are intended for beneficial use and not for disposal.

2. Whether EPA acted arbitrarily and capriciously, otherwise not in accordance with law, and in excess of its statutory jurisdiction, authority, or

limitations, or abused its discretion, by imposing regulatory requirements over CCRs that are intended for beneficial use and not for disposal.

3. Whether EPA acted arbitrarily and capriciously, otherwise not in accordance with law, and in excess of its statutory jurisdiction, authority, or limitations, or abused its discretion, by imposing the regulatory requirements for CCR landfills on a product manufactured from CCRs that is stored in an on-site inventory at the facility where the product was produced prior to off-site beneficial use.

4. Whether EPA's inclusion of "CCR pile" within the definition of "CCR landfill" is arbitrary and capricious, an abuse of discretion, otherwise not in accordance with the law, or in excess of its statutory jurisdiction, authority, or limitations.

5. Whether EPA's definition of "CCR beneficial use" is arbitrary and capricious, an abuse of discretion, otherwise not in accordance with law, or in excess of its statutory jurisdiction, authority, or limitations.

AESPR retains the right to raise any additional issue at the time briefs are filed in these consolidated cases.

Respectfully submitted,

/s/ Samuel B. Boxerman

Samuel B. Boxerman

Paul J. Zidlicky

Paul J. Sampson

Sidley Austin LLP

1501 K Street, N.W.

Washington, D.C. 20005

(202) 736-8000

(202) 736-8711 (Fax)

Counsel to Petitioner

AES Puerto Rico, LP

Dated: August 17, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of August 2015, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF System, which will send notice of such filing to all registered CM/ECF users.

/s/ Samuel B. Boxerman

Samuel B. Boxerman